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INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY

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SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [EINV](#) [KIDE](#) [OPIC](#) [CASC](#) [HR](#)
SUBJECT: 2009 CROATIA INVESTMENT DISPUTE AND EXPROPRIATION
CLAIMS REPORT

REF: STATE 49477

11. (SBU) Summary. Post has been following one ongoing case involving a U.S. investor attempting to purchase a subsidiary of the Croatian railroad in a privatization tender. The investor claims the Croatian Railroad (HZ) has refused to return a 150,000 euro deposit after the two sides could not agree on the terms of sale during negotiations on a privatization deal last fall. Post has intervened on the investor's behalf on numerous occasions, first with the Croatian Privatization Fund (HFP), then the Ministry of Economy and the Railroad, and then with the Minister of Transport. Despite numerous correspondence and meetings, including intervention by the Ambassador, the railroad has refused to return the deposit. End summary.

12. a. Claimant A

b. Date of dispute: November 2008

c. Claimant A was the only bidder for the privatization of a railroad car construction and repair facility in Cakovec, Croatia. After notification that they were the successful bidder, claimant A submitted a draft contract and a 150,000 euro deposit as required by the tender rules. The claimant's draft contract was rejected by the HFP acting on behalf of the railroad. The new requirements the HFP laid out fundamentally changed the terms of the deal, in claimant A's view, in a way that was unacceptable to them. These included questions over the land ownership, and a substantially different ownership structure for the company than had been indicated prior to the tender. Subsequent discussions failed to iron out these difficulties and claimant A requested the return of their deposit in November 2008. Since that time, the money has been moved from the HFP into the account of the HZ and the HZ has refused to reconsider the decision to hold the money.

Claimant A retained a local attorney and then approached the U.S. embassy for assistance. Embassy economic and commercial officers initially made contact with the HFP and HZ in order to encourage both sides to continue discussions to resolve their dispute. When numerous meetings did not succeed in resolving the case, the Ambassador raised the issue with the Minister of Economy, who referred the case to an office director. Several meetings with this director failed to move the issue forward. The Ambassador wrote to the Minister of Transport to raise the issue. After several weeks, and in response to a renewed inquiry from the embassy, the Minister replied that the matter had been referred to a state secretary in the Ministry for further research. Claimant A told us he was not initially interested in pursuing remedy in the courts, largely because the notoriously inefficient court system can often take years to render a decision in such cases. However, he now believes he has an obligation to his shareholders to bring the matter to court.

13. Claimant Information: Claimant A: Kostas Alexakis,

Olympic Investors LLC, acting as consultant to York Capital Management - no privacy act waiver signed.

¶4. Last contact with claimant on this issue: May 2009.
BRADTKE